

1996

State of Utah v. Frank Parker : Brief of Appellant

Utah Court of Appeals

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Frank Parker; Appellant pro se.

E. Neal Gunnarson, Clark A. Harms; Attorneys for Appellee.

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BRIEF

UTAH
DOCUMENT
K F U

Frank Parker/Pro Se Counsel
1388 Richard Street
Salt Lake City, UT 84115

ATO
DOCKET NO 960059-CA

IN THE UTAH COURT OF APPEALS

STATE OF UTAH,	)	<u>BRIEF</u>
)	
Plaintiff/Appellee	)	Case No. 960059-ca
)	
vs.)	
	)	Priority No. 10
)	
FRANK PARKER)	
)	
Defendant-Appellant)	

BRIEF OF APPELLANT

THIS IS AN APPEAL FROM A "FORFEITURE", ORDER AND JUDGMENT PURSUANT TO
UTAH CODE ANN. § 13-13(1), , THE HONORABLE; SANDA PEULER PRESIDING.
THIRD DISTRICT COURT

Frank Parker

FRANK PARKER

~~PRO SE COUNSEL~~
~~UTAH STATE PRISON~~
~~P O BOX 250~~
~~DRAPER, UT 84020~~

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SALT LAKE CITY, UT 84111

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[EOP]

IN THE UTAH COURT OF APPEALS

STATE OF UTAH : **BRIEF OF APPEAL**
Plaintiff/Appellee, :
vs. : Case No. 960059-ca
Frank Parker :
Defendant/Appellant :

BRIEF OF APPELLANT

JURISDICTION AND NATURE OF THE PROCEEDING

Appeal from a forfeiture, pursuant to, Utah Code Ann. 58-37-13(1), The derivative from the Appellant violation of Utah Code Ann. 58-37-8. Thereafter a bargain to "conditional" guilty plea. Utah Code Ann. 58-37-8 a felony of the third degree.

STATEMENT OF THE ISSUE AND STANDARD OF APPELLATE REVIEW

Did the trial court violate the United State Constitutional Amendment VIII "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted?" Citing; United States vs. Halper, 490 U.S. 435, 109 S.Ct (1892)(1989); Utah Constitution Amend. Article, I Section 9. Secondly, did the trial court violate the Appellant fifth amendment Double Jeopardy Rights. In concluding that the criminal action and the forfeiture action were separate proceedings, separate times, separate judges, but litigated the exact same facts. Established; United States vs. \$405,089.23 U.S. Currency, 33 f.3d 1210, 1216 (9th cir. 1994).

STATEMENT OF FACTS

On November 21, 1994, appellant/Frank Parker was arrested by the Murray City Police for

possession of a controlled substance with the intent to distribute. Resulting from the arrest, the Appellant property was seized (see Appendix for full description of property). Murray City police were contacted by an individual "Johnny Emery Blanchard" who stated he had brought some cocaine from the appellant. He stated that he had given the appellant permission to use his vehicle until he could get money for the cocaine. John Emery Blanchard then contacted the appellant by pager, requesting that the appellant meet him at the 7-eleven at 4811 South State to buy more drugs. Murray police were awaiting the Appellant arrival. When appellant arrived officers approached the appellant, thereafter Johnny Emery Blanchard departed from the Appellant vehicle. "No transaction took place between Johnny Emery Blanchard and the appellant." Handcuffs were placed on the appellant for the officer's safety. The appellant did not consent to the officers request to search the vehicle. However, the officer could see an open container of beer on the passenger floor board of the Appellant vehicle. Under the probable cause statute the officer searched the Appellant vehicle, finding on the passenger floor board of the vehicle one small pouch with individual badges of a white powdery substance believed to be cocaine. A female who was accompanying the appellant was inside the 7-eleven, thereafter, being made aware of the situation by a clerk working at the 7-eleven. The officers then apprehended the female, and during a pat search the officer found a pipe and baking soda that were believed to be drug paraphernalia. The female was transported to the Murray Police Department where she confessed that the drugs were the property of the appellant, in exchange for her release and further complication with the law. The controlled substance was booked into evidence at the Murray Police Station and the appellant was booked into the Salt Lake County Jail.

POINT I

"Did the trial court violate the United State Constitutional Amendment VIII,"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted?"

The appellant argues, consciously that the trial court tried to act moderately, but in the contrary, awarding forfeiture to the state was arbitrary, and violates the Constitution of Utah Article I, section 9; United States Constitution Amendment VIII [Excessive Fines Imposition]. The appellant asserts that once a particular controversy has been finally decided in a legal proceeding it's unconstitutional to be reopened and if so, would fall under an issue of Law defined as Breach of Contract. Thereafter the appellant has entered a conditional plea agreement for all charges filed against him, and all charges were known to the prosecution at the time of such pleas. Thereafter, the appellant being convicted resulting from the State pursuant to, Utah Code Ann. 58-37-8 unlawful possession of a controlled substance (cocaine) a felony of the third degree, the **"Honorable; R. A. Livingston,"** pronounced his adjudicative decision, confining the appellant to imprisonment at the Utah State Prison for an indeterminate period of 0 to 5 years. Thereafter, the adjudicative decision, **the appellant asserted for the records of the trials court and to act upon as a condition of the plea bargain "sir, since the appellant has.... can the appellant get his substances back that's being held by the Murray Police Department. Judge Livingston; "jokingly" Mr. Parker I see no need for the prosecution to hold your substance any longer, but I am sure that you know that you cannot get the controlled substance back."** The Appellant argument is that, at this time if the prosecution had a rebuttal against the appellant retrieving his property back or, if the prosecution intentions were to forego civil charges against the appellant

pursuant to **Utah Code Ann. 58-37-13(1)** "Forfeiture" it should have been alighted at that time. The prosecution failed to enjoin the forsaid issue at the appropriate time. I n reference the appellant turned the court attention to ; **Utah Code Ann. 76-402,2(2)**.

If another suit derives attempting to litigate the same allegation and facts would be met by the plea of "**res adjudicata**,". The appellant further states, that forfeiture of the Appellant vehicle would fall under [excessive fines]. "The Supreme Court reversed, holding that the excessive fine clause does apply to civil in rem forfeiture. **Austin--U.S.--at--,113, S.Ct. at 2812.** As an essential predicate to this holding the court concluded that the eighth amendment prohibits including the prohibition against excessive fines, apply in both criminal and civil contexts **Id.--at--, 113 S. Ct. at 2804-06** according to the court, the question is not whether the forfeiture is civil or criminal, but whether the forfeiture constitutes punishment, **Id.--at--113 S.Ct. at 2806.**" The prosecution asserted that Appellant "vehicle," even though it's clear of all liens, forfeiture does not constitute punishment, because the Appellant vehicle does not exceed the costs of prosecution. The appellant asserts that forfeiture of his vehicle would constitute punishment, when considering the appellant poverty deficiencies, (see Appendix Titled Source of income), and turns the court's attention to; **Cf. Austin, 113 S. Ct. at 2812 N.14;**

"Forfeiture of a valuable automobile would constitute punishment in many situations where the vehicle value greatly exceeded the costs of the prosecution. But the poor person's loss of his only "wheels" may actually work much more of a hardship than the wealthy person's loss of a luxury automobile. Surely the availability of important constitutional protections cannot turn on such vagaries of economics."

Id. (T)he value of the conveyances...forfeiture... can vary so dramatically that any relationship

between the government's actual costs and the amount of the sanction is merely coincidental." Thereafter the appellant asserts after having been sentenced to the Utah State Prison for the indeterminate period of, 0 to 5 years. The appellant opposed the forfeiture because it would be unduly harsh and violate the eighth amendment.

"Stare Decisis- "(to stand decided)" once a court has established a principle of law applicable to a certain set facts, the same rule will be applied in the future to all cases involving substantially the same set of facts; see, State vs. 392 South 600 East, 886 P.2d 534.

Under this test and based on the argument here in, the appellant submits that the decision made by the trial court should be reversed and all property returned to the appellant.

POINT II

“Did the trial court violate the Appellant fifth amendment Double Jeopardy Rights?”, in concluding that the criminal action and the forfeiture action were separate proceedings, separate times, separate judges, but litigated the exact same facts. In the States’, “MEMORANDUM IN SUPPORT OF SUMMARY AFFIRMANCE.” The prosecution states that the appellant failed to preserve the issue he now raises on appeal, but in the contrary the appellant has submitted to the Utah Court of Appeal in form of official documents, transcripts of the court hearing dated back on September 13, 1995 with the honorable judge Sandra Peuler presiding. Attorney Clark Harms present on behalf of the State, turning the court’s face on the appellant insertion of **double jeopardy**. It’s a fact as the definition of contemporaneous objection, when considering that the defendant raise the **double jeopardy** issue by merely stating in the trial court, **“Judge Peuler to proceed with this forfeiture proceeding today would violate my constitution rights ,when considering that I have already been convicted on the exact same facts that brings clause of**

REM forfeiture in this court today, and to proceed in such would cause double jeopardy, being that the case has been closed ,and therefore bars any sequential charges”, . Such statement would meet the scope of preservation to claim that the trial court manifested error, and that such errors are grounds for review by the court of appeal and, further states that to bring forth a second prosecution "in pursuant to" Utah Code Ann. 58-37-13(1) would violate ones "Constitutional Fifth Amendment." The seventh and ninth Circuits have concluded that civil forfeiture proceedings are separate from criminal proceedings. See, United States vs. Torres, 28 F.3d 1463, 1465 (7th Cir.), Cert. denied, --U.S. --, 115 S. Ct. 669 (1994); United States vs \$405,089.23 U.S. Currency, 33 F. 3d 1210, 1216 (9th Cir. 1994). In \$405,089.23 U.S. Currency, the government was seeking not only criminal penalties against the appellant, but was also pursuing civil forfeiture remedies. The different actions were instituted at roughly the same time, but the forfeiture proceedings were before a different judge and were not concluded until over a year after the criminal convictions.

Additionally, the forfeiture complaint was based on exactly the same offenses giving rise to the criminal prosecution, "[T]he only difference government." 33 F.3d at 1216. This issue before the court was parallel to the issue before this court, whether the second proceeding was a violation of the, "appellants' fifth amendment Double Jeopardy rights." In concluding that the criminal action and the forfeiture action were separate proceeding for double jeopardy purposes, the court stated:

“We fail to see how two separate actions, one civil and one criminal, instituted at different times, tried at different times, before different district judges, constitute the same "Proceeding." In ordinary legal parlance, such action are often proceedings only if they were brought in the same indictment and tried at the same time. characterized as "paralleled Proceeding," but not as the same "proceeding."

A forfeiture case and a criminal prosecution would constitute the same

Id. Moreover, although both proceedings resulted from the same violation of the law, the court

stated "We are not willing to white wash the double jeopardy violation in the case by affording Constitutional significance to the label of "single, coordinated Prosecution." **Id. at 1217.** See also **Toreros, 28 F.3d at 1465** ("Two trials, even if close in time, is still double jeopardy, “); **United States vs. Stanwood, 872 F. Supo 791 (D. or 1994); United States vs McCaslin, 863 F. Supp. 1299 (W.D. Wash. 1994).** **United States vs Ursery, 59 F.3d 568, 575 (6th Cir. 1996)** **Utah Code Ann. 58-37-13(9)(h)(1994).** See also **Utah Code Ann. 76-3-501 (6((h)(1994); 21 U.S.C.A. 881 (West Supp. 1995).** Conclusion of forsaid issue before the Utah Court Appeals see; **State vs Wallace Davis, "(For official Publication)" Case No. 940574-CA (September 1, 1995).** stop The only coinciding factor between, **State vs. Wallace Davis**, and the Appellant case are that the proceedings were reversed prosecutions order. **The Utah State Court of Appeals "Conclusion";**

"We hold that the concluded forfeiture action and the pending criminal proceeding are separate proceedings for Double Jeopardy purpose and that a forfeiture pursuant to section 58-37-13 constitutes punishment. By pursuing the criminal proceedings against defendant, the state is attempting to punish the defendant a second time for an offense for which he has already been punished, the very abuse that the Double Jeopardy clause protects against. Therefore, we conclude that the subsequent criminal proceeding is barred by the Double Jeopardy clause of the fifth amendment. Accordingly, the trial court's order denying defendant's motion to dismiss is reversed."

It is clearly obvious that the purpose of the United State Constitution V Amendment, United States Constitution VIII Amendment, and the Utah Constitutional Amendment Article I, Section 9, were constituted to protect the defendant from such constructive litigation by the prosecution of authorities, such as the ones here in this Brief of appeal and is the subject of the forsaid appeal for decision and review.

SUMMARY OF CONCLUSION

The appellant turns to the [MULTIPLE PROSECUTION AND DOUBLE JEOPARDY]; Utah Code Ann. G.P. Part 4, 76-1-401; "Single criminal episode ", defined - Joined of offenses and Defendants: In this part unless the context requires a different definition, "Single Criminal Episode" means all conduct which is closely related in time and is incident to an attempt or an accomplishment of a single criminal objective. [N]othing in this part shall be construed to limit or modify the effect of section; (77-21-31), in controlling the joinder of offenses and defendants in criminal proceedings. (1975) 76-1-402, **Separate offenses arising out of single criminal episode - include offenses** (1). A defendant may be prosecuted in a single criminal episode; however, when the same act of a defendant under a single criminal episode shall establish offenses which may be punished in different ways under different provisions of this code, the act shall be punishable under [O]nly one such provision; an acquittal or conviction and sentence under and such provision bars a prosecution under any other such provision. (2). Whenever conduct may establish separate offenses under a single criminal episode, unless the court otherwise orders to promote justice, a defendant [s]hall not be subject to separate trials for multiple offenses when:

- (a) The offenses are within the Jurisdiction of a single court, and
 - (b) The offenses are known to the prosecution attorney at the time the defendant is arraigned on the first information or indictment.
- (3). A defendant may be convicted of an offense included in the offenses charges [b]ut may not be convicted of both the offense charged and the included offense. An offense is so included when;
- (a) It is established by proof of the same or less than all the facts required to establish the commission of the offense charged; or
 - (b) It constitutes an attempt, solicitation, conspiracy, or form or preparation to commit the offense charges or an offense otherwise included therein; or

© It is specifically designated by a statute as a lesser included offense.

(4). The Court shall not be obligated to charge the jury with request to an included offense unless there is a rational basis for a verdict acquitting the defendant of the offense charged and convicting him of the included offense.

(5). If the District court on motion after verdict or judgment, or an appeal court on appeal or certiorari, shall determine that there is insufficient evidence to support a conviction for the offense charged but that there is sufficient evidence to support a conviction for an included offense and the tries of fact necessarily found every fact required for conviction of that included offense, the verdict or judgment of conviction may be set aside or reversed and a judgment of conviction entered for the included offense; without necessity of a new trial, if such relief is sought by the defendant. 76-1-

403. Former prosecution barring subsequent prosecution for offense out of same episode.

(1). If a defendant has been prosecuted for one or more offenses arising out of a single criminal episode, a subsequent prosecution for the same or a different offense arising out to the same criminal episode is barred if :

(a) The subsequent prosecution is for an offense that was or should have been tried under subsection 76-1-402(2) in the former prosecution; and

(b) The former prosecution;
(I) resulted in acquittal; or
(ii) resulted in conviction; or
(iii) was improperly terminated; or
(iv) was terminated by a final order or judgment for the defendant that has not been reversed, set aside, or vacated and that necessarily required a determination inconsistent with a fact that must be established to secure conviction in the subsequent prosecution.

(2) There is an acquittal if the prosecution resulted in a finding of not guilty by the tried of fact in a determination that there was insufficient evidence to warrant conviction. A finding of lesser

include offense is an acquittal of a greater offense even though the conviction for the lesser included offense is subsequently reversed, set aside, or vacated.

(3). There is a conviction if the prosecution resulted in a judgment of that has not been reverses, set aside, or vacated; a verdict of guilty that has not been reversed, set aside or vacated and that is capable of supporting a judgment; or plea of guilty accepted by the court.

(4). There is an improper termination of prosecution of the termination takes place after a jury has been impaneled and sworn to try the defendant, or if the jury trial is waived, after the first witness is sworn. However, termination of prosecution is not improper if:

- (a) The defendant consent to the determination; or
- (b) The defendant waives his right to object to the termination;
- © The Court finds and state for the record that the termination is necessary

because :

- (I) It is Physically impossible to proceed with the trial in conformity with the law; or
- (II) There is legal defect in the proceeding not attributable to the state that would make any judgment entered upon a verdict reversible as a matter of law; or
- (III) Prejudicial conduct in or out of the courtroom not attributable to the state makes the trial without injustice to the defendant or the state; or
- (IV) The jury is unable to agree upon a verdict; or
- (V) False statements of a juror on void dire prevent a fair trial.

CONCLUSION

In conclusion, based on the above argument, I, Frank Parker, acting through Pro Se Counsel express this appeal from the "Trial Court's" decision, based on a reasoned and studied professional

judgment that this appeal involves one or more questions of exceptional importance; (1). **Did the "Trial Court" violate the excessive fines clause?** and, (2). **Did the "Trial Court" violate the double jeopardy clause?** The appellant has submitted evidence that the double jeopardy issue was preserve in the trial court, and that this case itself is a **sound** case for review by the court of appeals and clearly reveals rational facts even with the limited research of the law. This is a case that is identical to the case; **State vs. Wallace Davis for official publication; case NO#. 940574-CA** in which the court of appeals reversed the lower court decision base upon the defendants' constitutional rights that protect one from double jeopardy, however, the order in which they were prosecuted is reverse order, but irrelevant to their identity and facts. It is acknowledging that all properties belong to the appellant, that were found in the proximity of the illegal activity could have been the subject of forfeiture if the prosecution attorney would have brought fore charges at the appropriate time which was at the time the appellant was being heard on the criminal episode, failure bars any sequential charges by law. Therefore the appellant asks the court of appeals to review the significant of the elements within this document of briefing present by the appellant under the following considerations that; the appellant is action through Pro Se counseling and studies of the law, the appellants feels that if such injustice prevails it would be arbitrary and would discredit the justice pertaining to quoted laws and statues within this briefing as well as violate ones constitutional rights, and would inflict unduly hardship upon the appellant. This is the sole and profound reason why the Utah Supreme Court has amended the scope of forfeiture, to protect one from such double jeopardy and have by law barred proceeding, that's pursued on this manner.

It appears that the prosecution is attempting to inflame this issue by merely bringing up the appellants past criminal history, "(stating in one of their documents they have forwarded to the

courts and I)”, that the appellant was under the supervision of parole doing the time he committed these violations. The appellant asks the court to over look such statements pertaining to the appellants past criminal history and to recognize that the state is attempting to inflict the appellant with double jeopardy by merely mentioning facts and evidence of crimes in which the appellant has already been adjudicated of. The appellant hereby prays that the court of appeals will reverse the "Forfeiture" of defendants’ property ordered by the "Trial Court” on September 13, 1995 before the Third District Court, Salt Lake County, the Honorable Sandra N. Peuler presiding. "(Property described in Appendix)"

RESPECTFULLY SUBMITTED this 16 day of October, 1995.

A handwritten signature in cursive script, reading "Frank Parker", written in black ink on a white background. The signature is fluid and stylized, with a long horizontal flourish at the end.

**FRANK PARKER / Appellant
PRO SE COUNSEL**

Frank Parker/Pro Se Counsel
1388 Richard Street
Salt Lake City, UT 84115

Certificate of service

I hereby certify that I caused to be mailed, postage prepaid, this 18 Of M ay, 1996, a true copy of the foregoing document.

A handwritten signature in cursive script that reads "Frank Parker". The signature is written in black ink and is positioned to the right of the certificate text.

E. NEAL GUNARSON
D.A. FOR SALT LAKE COUNTY
CLARK A. HARMS, BAR #5713
ATTORNEY FOR PLAINTIFF-RESPONDENT
231 EAST 400 SOUTH, SUITE 101
SALT LAKE CITY, UT 84111

Frank Parker
Plaintiff Pro Se
Utah State Prison
P. O. Box 250
Draper, Utah 84026

FILED DISTRICT COURT
Third Judicial District
AUG 23 1995

FILED
DISTRICT COURT
55 AUG 16 PM 2:25

By S. Own

IN THE THIRD JUDICIAL DISTRICT COURT

IN AND FOR COUNTY OF SALT LAKE, STATE OF UTAH

FRANK PARKER,

Plaintiff,

vs.

STATE OF UTAH,

Defendant.

MOTION TO RETURN
SEIZED EVIDENCE

Case No. 950902803 CV
951000000 FE

Judge Honorable Sandra Paulson

COMES NOW Frank Parker, Plaintiff, appearing Pro Se, would move this Honorable Court to release seized evidence and property obtained from a search conducted by: Murray City Police on the date of November 21, 1994 at the location of: 4811 South State Street (7-Eleven). The grounds for this Motion are:

1] Possession of large amount of cash or communication devices is not per se evidence of drug-related illegal activity for forfeiture purposes.

2] Plaintiff is entitled to lawful possession on seized property; needs for the property for evidence by the State has ended.

In accord with the foresaid, prolonging to obtain Plaintiff property without any Due Process violates Plaintiff's Constitutional rights as guaranteed by the Fourteenth Amendment of the Constitution of the United States

Dated this 14 day of August, 1995

Frank Parker

FRANK PARKER, Plaintiff Pro Se

CERTIFICATE OF MAILING

I, Frank Parker, hereby certify that I have caused to be mailed, postage prepaid, a true and correct copy of the foregoing Motion to Return Seized Evidence to:

Clark A. Harms
Attorney for the Defendant
231 East 400 South
Suite 300
Salt Lake City, Utah 84111

AND

Clerk of the Court
Third Judicial District Court
200 East 451 South
Salt Lake City, Utah 84111

and that I caused these copies to be mailed on this 16th day of August, 1995.

Frank Parker

FRANK PARKER

FRANK PARKER
UTAH STATE PRISON
P O BOX 250
DRAPER, UT 84020

IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

FRANK PARKER	*	
	*	NOTICE OF APPEAL #1
APPELLANT	*	
	*	CASE NO 950902803CV
VS.	*	
	*	JUDGE. SANDRA PEULER
94-13659 MURRAY POLICE	*	
DEPARTMENT	*	
APPELLEE	*	

(1). NOTICE IS HERE BY GIVEN THAT APPELLANT, FRANK PARKER.
THROUGH PRO SE COUNSEL, APPEALS, "THE FINAL JUDGMENT AND ORDER
OF THE , HONORABLE SANDRA PEULER.

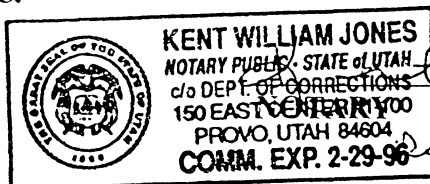
ENTERED IN THIS MATTER BASED UPON ENTIRE JUDGMENT

DATED THIS mid day of October, 1995.

Frank Parker

FRANK PARKER/ APPELLANT
PRO SE

SUBSCRIBED AND SWORN BEFORE ME THIS 3rd DAY OF
OCTOBER, 1995.



Kent W Jones
Notary in S.L. County

IN THE THIRD JUDICIAL DISTRICT COURT, SANDY DEPARTMENT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

26101
g.I.

STATE OF UTAH,
Plaintiff,

vs.

FRANK PARKER,
Defendant.

ORDER OF JUDGMENT,
SENTENCE AND COMMITMENT

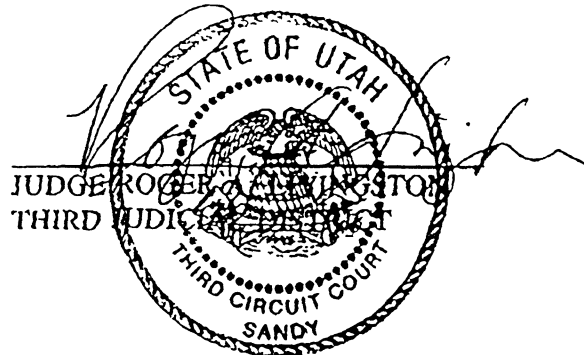
CASE NO: 951000026 FS
JUDGE ROGER A. LIVINGSTON
CLERK C. Hatch
DATE: 1-12-95

The defendant being present and represented by Elizabeth A. Bowman and the State present and represented through Nick D'Alesandro, there being no legal reason why sentence should not be imposed, the defendant having been convicted by a plea of guilty to Count I as amended, UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE, (cocaine) a felony of the third degree,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant be confined and imprisoned at the Utah State Prison for an indeterminate period of 0 to 5 years as provided by law for the crime of Unlawful Possession of Controlled Substance, concurrent with time now serving. Court recommends credit for time served from November 21, 1994.

DATED this 12th day of January, 1995.



DAVID E. YOCOM
Salt Lake County Attorney
RICHARD G. HAMP, Bar No. 4048
Deputy County Attorney
231 East 400 South, Suite 300
Salt Lake City, Utah 84111
Telephone: (801) 363-7900

IN THE THIRD CIRCUIT COURT, SALT LAKE DEPARTMENT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

THE STATE OF UTAH,	)	Screened by: R. HAMP
	)	Assigned to: MAJOR DRUG
Plaintiff,)	
	)	BAIL: NO BAIL
	)	<i>Amended</i>
-vs-	)	I N F O R M A T I O N
)	
FRANK PARKER,)	
DOB 11/12/57	)	Case No.
OTN 7382773)	
	)	941020590 FS
Defendant.)	

The undersigned Det. Scott Hansen - Murray City Police Department, under oath states on information and belief that the defendant, committed the crime of:

COUNT I
UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE ~~WITH INTENT TO~~
~~DISTRIBUTE~~, a ^{7A/43} ~~Second~~ Degree Felony, at 4811 South State Street,
in Salt Lake County, State of Utah, on or about November 21,
1994 through November 22, 1994, in violation of Title 58,
Chapter 37, Section 8(1)(a)(iv), Utah Code Annotated 1953,
as amended, in that the defendant, FRANK PARKER, a party to
the offense, did knowingly and intentionally have in his
possession a controlled substance, to-wit: ~~Methamphetamine~~, *using*
a Schedule II Controlled Substance, with intent to
distribute.

NO BAIL REQUEST: The defendant FRANK PARKER is currently on Probation for another felony. Therefore, pursuant to Article I, Section 8, Utah Constitution, it is requested that the defendant be held without bail on the above charge.

INFORMATION
STATE OF UTAH v. FRANK PARKER
County Attorney No. 94 012138
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THIS INFORMATION IS BASED ON EVIDENCE OBTAINED FROM THE FOLLOWING
WITNESSES:

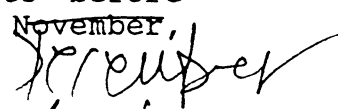
Brandon Price, John Blanchard, Kimberlee Croft, Mike
Faircloth, Terry Steed, Scott Hansen and State Criminalist.

PROBABLE CAUSE STATEMENT:

On November 21, 1994 through November 22, 1994, at
approximately 11:30 p.m. at 4811 South State Street, in Salt Lake
County, defendant was found to be in possession of 11-12 grams of
suspected Methamphetamine which was in twenty separate baggies.
The substance has been field tested and found to be
Methamphetamine, a Schedule II Controlled Substance.



DET. SCOTT HANSEN
Affiant

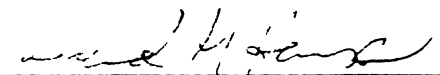
Subscribed and sworn to before
me this 2 day of November,
1994. 



MAGISTRATE

Authorized for presentment and filing:

DAVID E. YOCOM, County Attorney



Deputy County Attorney
November 29, 1994
msy/94 012138